

Statement of Senator Lisa Murkowski
Senate Foreign Relations Committee
Hearing on the UN Convention on the Law of the Sea
September 27, 2007

Mr. Chairman – thank you for holding this hearing and the opportunity to comment on a treaty that is of particular importance to Alaska.

Some of my colleagues may not be aware, but over half of the United States' coastline is in Alaska. Likewise, the Arctic Ocean covers only 3% of the earth's surface, yet it accounts for over 25% of the world's continental shelf area. So when we are considering a Treaty that governs the planet's oceans and the ocean floor, the people of Alaska have a very strong interest.

There are some who do not see the point in joining the rest of the world in ratifying the Convention on the Law of the Sea. They say that the U.S. already enjoys the benefits of the Treaty even though we are not a member – that by not becoming a party to the Treaty we can pick and choose which sections of the Treaty we abide by while not subjecting our actions to international review.

But I would point out, while the situation is favorable now, that may not always be the case. The Treaty opened to amendment in 2004. Do we want a seat at the table to ensure our voice is heard, or do we place our interests in the hands of other nations?

I will give one example. When the U.S. declined to sign the Law of the Sea Treaty in 1982 out of concern over deep sea-bed mining provisions in Part XI, one of the objections was that the United States was not guaranteed a seat on the executive council of the international seabed authority. With the renegotiation in the 1994 agreement, the U.S. is essentially assured a seat on the 36-member State Council by virtue of the "largest economy" provision within the Implementation Agreement.

And I would note that while some decisions by the Council are subject to majority vote if a consensus cannot be formed, there are circumstances where decisions must be made by consensus – including the adoption of rules concerning sea-bed mining, and the adoption of amendments to Part XI of the Treaty. As a party to the Law of the Sea, the U.S. can promote rules and regulations based on market principles and investment protection. But if we do not ratify this Treaty, the Senate will have capitulated the United States' ability to block unfavorable rules and amendments – including potential amendments that could revoke the United States' guarantee of a seat in the Council.

The U.S. waged a global campaign in the developed world to hold off ratifying the Treaty until the sea-bed mining provisions were changed. We got what we wanted, but still we have declined to ratify the Law of the Sea. How can we expect parties in the future to take the U.S. seriously when we negotiate treaties or agreements if we are not willing to follow through in this instance? I believe it is very important for the U.S. to be a party to

this Treaty and be a player in the process, rather than an outsider hoping our interests are not damaged.

Now, there are several topics I would like to comment on relating to the Treaty and its potential impact on Alaska. The first being claims over the continental shelf.

In the 1958 Convention on the Continental Shelf, which the U.S. is a party to, the issue of limitations on the continental shelf was not resolved due to lack of information about the continental shelf. With technological advances and greater knowledge the Law of the Sea provides that a coastal state's continental shelf can extend for 200 nautical miles, with the potential to extend that claim even further.

Russia has submitted a number of claims to the Commission on the Limits of the Continental Shelf that would grant them 45% of the Arctic Ocean's bottom resources – first in 2002 and of course the most recent when Russia placed a flag on the ocean bottom earlier this year. We are fortunate that the Commission so far has withheld its approval of Russia's claim.

According to the U.S. Arctic Research Commission, if we were to become a party to the Treaty, the U.S. stands to lay claim to an area in the Arctic of about 450,000 square kilometers – or approximately the size of California.

But if we do not become a party to the Treaty our opportunity to make this claim, and have the international community respect it, diminishes considerably – as does our ability to prevent claims like Russia's from coming to fruition.

Not only is that a negligent forfeiture of valuable oil, gas, and mineral deposits, but also the ability to perform critical scientific research. The Arctic Ocean is the most poorly understood ocean on the planet. Now is the time to be studying the thinning of the polar cap and its potential impact on the global climate, as well as potential economic activity in the area – not the least of which is the opening of polar routes for maritime commerce.

Also in relation to the Arctic Ocean – and the potential thinning of the polar cap – is the opening of polar routes for maritime commerce. There are predictions that the Arctic Ocean will be ice free for ninety days or more in the summer by the year 2050 – which in turn translates into greater access, and greater utilization.

By utilizing a polar route, the distance between Asia and Europe is 40% shorter than current routes via the Suez or Panama Canals – and is in a much more stable part of the world.

But with greater usage comes greater responsibility. A number of nations have Arctic research programs. Alaska's coastline on the Arctic Ocean is over 1,000 nautical miles. The U.S. can either exercise sea control and protection in this area of the world, or cede that role to whichever nation is willing to assume it. As a party to the Law of the Sea, the

United States' ability to enforce our territorial waters and our Exclusive Economic Zone (EEZ) in the Arctic Ocean is strengthened even further.

Mr. Chairman, the Convention on the Law of the Sea also provides a basis for several international treaties with great relevance to our nation's most productive fisheries, which occur off the coast of Alaska and are of significant value to the economies of Alaska and other Pacific Northwest states.

The Convention on Straddling and Highly Migratory stocks provides both access to, and protections for fish stocks which migrate through the high seas and the jurisdictions of other countries. Among the stocks for which this agreement is of paramount significance is the Bering Sea stock of Alaska pollock, which is the basis for this country's largest single fishery.

The Convention on Fisheries in the Central Bering Sea is another critical piece, which allows us an unprecedented degree of control over the activities of other fishing nations in the central portion of the Bering Sea, beyond both the U.S. and the Russian Exclusive Economic Zones. Without the influence of the Law of the Sea, neither of these important fishing agreements would likely have come into being.

Also, Mr. Chairman, let me note the importance – and the somewhat fragile status of – our maritime boundary agreement with Russia. As you may know, this agreement delineates a specific boundary between our two countries. It is necessary because the agreement under which the United States acquired what is now the State of Alaska was interpreted differently by the two parties.

Both the boundary agreement, and the fisheries enforcement mechanisms that stem from it, are critical to the conduct of fisheries policy in the U.S. and Russian EEZs in the Bering Sea. Although the United States ratified the maritime boundary agreement shortly after it was presented to the Senate, the Russian government has yet to do so, under pressure both from nationalist political interests and Russian Far East economic interests. While observing the provisions of the boundary treaty, the Russian government also has attempted to persuade the U.S. to make a number of significant concessions regarding Russian access to U.S. fishery resources, suggesting meanwhile that such concessions would improve the atmosphere for Russian ratification.

The terms of the boundary treaty are widely regarded as highly favorable to the United States, and are themselves consistent with the Law of the Sea. However, rejection of the latter by the United States could trigger similar rejection by the Russian Duma of the boundary treaty. If that were to occur, it would be extremely difficult to renegotiate the boundary agreement with similar positive results for the United States.

The United States and Alaska have tremendous interests in the Arctic Ocean. Our technological capabilities in calculating the extent of the continental shelf are welcomed by other nations. As a party to the Law of the Sea Treaty, we have the opportunity to

stake our claim to a significant chunk of real estate that has the potential for impact on our economy and our national security.

We also have the opportunity to further U.S. leadership in the international community on maritime issues and ensure the continuation of those provisions in the Convention that are so vital to the United States' fisheries industries.

The Convention on the Law of the Sea has my strong support and I look forward to its consideration on the Senate floor.